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June 30, 2005

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**ELECTRONICALLY FILED
(VIA ECFS)**

Marlene H. Dortch, Secretary
Federal Communications Commission
445 Twelfth Street, S.W.
Washington, DC 20554

**Re: MB Docket No. 03-15
WHAM-DT, Rochester, NY (Facility Id. # 73371)
Request for Waiver of Replication/Maximization Interference
Protection Deadline**

Dear Ms. Dortch:

On behalf of Central NY News, Inc. ("CNYN"), the permittee of digital television ("DTV") station WHAM-DT, Rochester, NY (Facility Id. # 73371) ("WHAM"), we hereby request a waiver of the July 1, 2005 replication/maximization interference protection deadline for digital television stations affiliated with the top four networks in markets 1-100. *See Second Periodic Review of the Commission's Rules and Regulations Concerning the Transition to Digital Television*, MB Docket No. 03-15, FCC 04-192, ¶ 78 (rel. Sept. 7, 2004) ("*Second Periodic Review*"). This request is being filed electronically through ECFS pursuant to the FCC's public notice regarding requests for waiver of the deadline. *See Public Notice, DTV Channel Election Issues – Compliance with the July 1, 2005 Replication/Maximization Interference Protection Deadline; Stations Seeking Extension of the Deadline*, DA 05-1636 (rel. June 15, 2005). As explained below, due to circumstances beyond its control, CNYN seeks a waiver of the replication/maximization interference protection deadline pending receipt of FCC authorization to construct the facilities specified in a recently-filed DTV construction permit application and commencement of operations pursuant thereto.

WHAM currently operates on NTSC channel 13 and out-of-core DTV channel 59. As a top four network-affiliated station in one of the nation's top 100 markets that has chosen its analog channel for post-transition operations, the station is subject to the Commission's July 1, 2005 replication/maximization interference protection deadline and must serve 100% of the population served by its 1997 NTSC facility by that date. As explained below, WHAM is unable to provide the required service by the July 1, 2005 deadline due to circumstances wholly beyond its control,

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rendering a waiver of the deadline for a brief period appropriate. *See Second Periodic Review* at ¶ 87; *see also* 47 C.F.R. § 1.3.

Station WHAM's DTV allotment specifies an ERP of 1000 kW and an antenna height above average terrain ("HAAT") of 152 meters. WHAM is currently operating with an ERP of 8.7 kW at a HAAT of 133 meters pursuant to special temporary authority ("STA").¹ *See* FCC File No. BEDSTA-20040802BKW, as extended. Pursuant to the FCC's replication/maximization interference protection requirement, CNYN understands that in order for it to "carry over" the full scope of interference protection of WHAM's DTV allotment contour to its post-transition channel 13 operation, the station must by July 1, 2005 be operating with facilities on channel 59 that serve 100% of the population served by the 1997 NTSC facility upon which its DTV allotment was based. *See Second Periodic Review* at ¶ 78. Accordingly, in full anticipation of meeting the deadline, in the early Spring of 2005 WHAM requested and received an STA to operate with an increased ERP of 996 kW at a HAAT of 129 meters. *See* FCC File No. BMDSTA-20050329AGH. These higher power facilities will allow WHAM to serve 100% of the station's NTSC Grade B service population in compliance with the FCC's replication/maximization interference protection requirement. CNYN fully intended to be operating with these higher powered facilities by July 1, 2005, but as explained below, will need a brief extension of time to complete construction and commence operations at the higher power.

CNYN had originally planned to request an extension of the higher power STA (which expires July 1, 2005), but in light of the FCC's June 15 Public Notice, CNYN has instead filed an application to modify its outstanding construction permit to authorize operation with the facilities specified in the higher power STA. *See* FCC File No. BMPCDT-20050629ADF.² CNYN diligently ordered all of the equipment necessary to complete construction of the higher power STA facility well

¹ This STA expires on July 1, 2005. Concurrently with this filing, CNYN is requesting a sixty-day extension of the lower power STA.

² CNYN only recently filed the referenced construction permit application because it was not clear, until the release of the FCC's Public Notice on June 15, 2005, that a construction permit application was required. The construction permit application was filed as soon as practicable after the Public Notice was issued.

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in advance of the July 1, 2005 deadline and fully expected to have the equipment delivered and installed by mid-June. However, CNYN recently was informed by Harris Corporation, from which CNYN has ordered the station's DTV transmitter, that delays by Harris' vendors will render it impossible for the transmitter to be delivered and its installation completed before July 1, 2005. *See* Exhibit 1 hereto (Letter from Homer Stanley, Harris Corporation, to Stan Manson, CNYN, dated June 2, 2005); *see also* Exhibit 2 hereto (Letter from Lowell Nudd, Fred A. Nudd Corporation, dated June 16, 2005). Based on these representations from Harris and the installation company, CNYN expects to receive the transmitter shortly and to complete installation promptly following receipt of FCC authorization to do so.³

A grant of the requested waiver of the FCC's July 1, 2005 replication/maximization interference protection deadline would ensure that the station's interference protection is not limited to the DTV service area achieved on that date due to circumstances beyond CNYN's control. In light of these facts, CNYN submits that a waiver of the July 1, 2005 deadline and a brief extension thereof, pending receipt of FCC authorization to construct the facilities specified in its recently-filed DTV construction permit application and commencement of operations pursuant thereto, is appropriate, and respectfully requests that the Commission continue to afford WHAM full interference protection for its DTV allotment contour.

If there are any questions concerning this matter, please contact the undersigned.

Sincerely,



John M. Burgett

cc (by email): Shaun Maher

³ In fact, assuming that FCC authorization is expeditiously received, installation could be completed as soon as the end of July 2005.

EXHIBIT 1



HARRIS CORPORATION

Broadcast Communications Division
3200 Wismann Lane
Post Office Box 4290
Quincy, IL USA 62305-4290
telephone 1-217-222-8200

www.harris.com

June 2, 2005

Stan Manson
Engineering Co-Manager
WHAM-TV/DT
4225 West Henrietta Road
Rochester, NY 14602

Dear Mr. Manson:

On February 02, 2005, WHAM placed an order with Harris Corporation for a CD3130P1 Digital Television Transmitter with installation at WHAM-DT Rochester, NY.

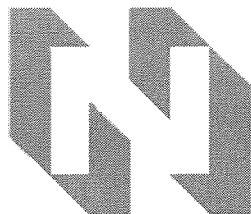
The transmitter delivery and installation was originally scheduled to commence on June 7, 2005 and be completed by July 1, 2005. I regret to inform you that delays by Harris vendors will not allow delivery of the transmitter as previously scheduled. The anticipated completion date of the transmitter system including the RF system is now June 14, 2005. Based upon shipping schedules, I have rescheduled the transmitter delivery and installation start date to June 17, 2005. The anticipated transmitter installation completion date will now be July 16, 2005.

Due to the high volume of installations being scheduled and performed at this time, Harris does not have the resources available to complete the installation and commissioning any earlier. Harris cannot guarantee that the above dates will be met, however every effort will be made to meet the projected schedule. If you need any additional information, please feel free to contact me. I apologize for the inconvenience that the above delay will cause you.

Sincerely,

Homer Stanley
Field Engineer Manager,
TV Installations

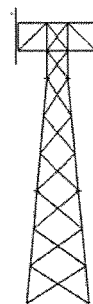
EXHIBIT 2



FRED A. NUDD CORPORATION

1743 ROUTE 104, BOX 577
ONTARIO, NY 14519
(315) 524-2531 FAX (315) 524-4249

www.nuddtowers.com



June 16, 2005

Lou Volino
13 WHAM TV/DT
4225 West Henrietta Road
P.O. Box 20555
Rochester, NY 14602-1570

RE: Antenna Installation

Lou:

We are aware that due to licensing issues, the antenna installation was scheduled to be completed by July 1, 2005. Due to unexpected delays in material and RF construction equipment procurement as well as delays in current on-going projects, the construction deadline will not be met. We are anticipating completion of equipment installation by the end of July 2005. Note that this is assuming no delays due to inclement weather or lack of cooperation with other RF sources at the site.

We are actively fabricating materials for the tower reinforcement and new transmission line bridge layout.

If you have any questions concerning this, please contact me.

Sincerely,

Fred A. Nudd Corporation

Lowell Nudd
Vice President